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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,793	03/07/2001	John Hathaway	940-3079-U	5476

7590

12/16/2003

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EXAMINER

HYLTON, ROBIN A.

ART UNIT

PAPER NUMBER

3727

16

DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/800,793

Applicant(s)

HATHAWAY ET AL. 

Examiner

Robin A. Hylton

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

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## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 8, 2003 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 9, 10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams.

Williams teaches a glass closure as claimed. Glass closures are known to have flash lines formed during manufacture. The closure of Williams also has at least one annular sealing bead for engaging a gasket.

### ***Claim Rejections - 35 USC § 103***

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams.

Williams teaches the claimed closure except for a pair of sealing beads.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a pair of annular beads instead of only one, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

5. Claims 3-8, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the disclosed conventional closure in view of Williams.

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Applicant discloses it is known in the art to provide a closure having a cap portion, an annular sealing surface extending below the cap portion and having a part line flash thereon, the sealing surface engaging a gasket between the cap and a container opening, and an annular threaded section below the sealing surface. Applicant discloses the conventional closure does not teach a pair of annular sealing bands on the sealing surface through at least a portion of the part line flash.

Williams teaches it is known to provide a known closure having inherent part line flash with an annular sealing band through at least a portion of the part line flash.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of an annular sealing band through at least a portion of the part line flash as taught by Williams to the conventional known closure disclosed by applicant. Doing so would correct for defects of the closure and associated container opening to provide a more reliable seal. To provide a pair of annular beads instead of only one would have been obvious to one of ordinary skill in the art at the time the invention was made, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

6. Claims 3-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the disclosed conventional closure in view of Williams.

Applicant discloses it is known in the art to provide a closure having a cap portion, an annular sealing surface extending below the cap portion and having a part line flash thereon, the sealing surface engaging a gasket between the cap and a container opening, and an annular threaded section below the sealing surface. Applicant discloses the conventional closure does not teach a pair of annular sealing bands on the sealing surface through at least a portion of the part line flash.

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Williams teaches it is known to provide a known closure with an annular sealing band. Williams also discloses the closure can be manufactured from various materials (page 2, lines 15-16). By applicant's disclosure, a molded plastic closure has a part line flash.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of an annular sealing band through at least a portion of the part line flash as taught by Williams to the conventional known closure disclosed by applicant. Doing so would correct for defects of the closure and associated container opening to provide a more reliable seal. To provide a pair of annular beads instead of only one would have been obvious to one of ordinary skill in the art at the time the invention was made, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

#### ***Response to Arguments***

7. Applicant's arguments filed October 8, 2003 have been fully considered but they are not persuasive. Applicant asserts the closure of Williams does not have a part line flash simply because it is not manufactured in a manner applicant regards as leading to a part line flash. This alone does not prove that glass closures do not have a part line flash, only that the prior art in question does not specifically state such is the case. Moreover, if a part line flash is undesirable and a secondary grinding operation is required as applicant states in the remarks, it is unclear why the instant invention is not also without a part line flash ground to smooth the sealing surface.

Additionally, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a molded plastic closure) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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**Conclusion**

8. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

9. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-7306 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

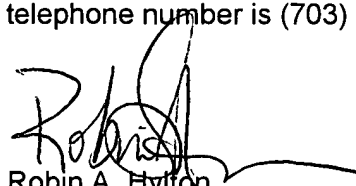
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a flexible schedule, but can normally be reached on Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bemby at (703) 306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

RAH  
December 13, 2003

  
Robin A. Hylton  
Primary Examiner  
GAU 3727